law." Without one of the stated grounds, the court will not typically review a United States Court of Appeals decision simply to correct a proceed error in that decision. (*Ticor Title Insurance Company v. Brown*, 511 U.S. 117, 122 (1994).)

The petitioner's primary ground for seeking review in this court is that there is an existing conflict among the circuits with respect to the application of Rule 12(b)(6) motions with respect to being allowed to amend civil rights claims. This issue is irrelevant to the subject raised in the instant case. The petitioner's Complaint was dismissed under *Federal Rules of Civil Procedure* Rule 12(b)(1) for lack of subject matter jurisdiction not for failing to state a claim under which relief can be granted. As noted above, it is clear from the petitioner's Complaint and the nature of the claim that it lacks subject matter jurisdiction for the United States District Court. Any amendment would not correct this.

Secondly, the petitioner opines that this court should entertain the petition since a conflict exists on the application of Rule 17(b) and (c) of the *Federal Rules of Civil Procedure* with respect to the appointment of a guardian ad litem. Again, as addressed above, the plaintiff's capacity was never raised in the United States District Court nor in petitioner's Complaint. The issue of this capacity was raised by the plaintiff in the State Courts and based upon the decision of the California Appellate Court, the matter was considered and denied.

Finally, the plaintiff's petition argues there is an "ever widening conflict between the decisions of the Federal Courts of Appeal on the application of the *Rooker-Feldman* doctrine." The first of the cases cited by the petitioner to

support this position is *Robinson v. Ariyoshi*, 753 F.2d 1468 (9th Cir. 1985). However it should be noted that this decision was vacated upon the granting of a Writ of Certiorari and subsequent decision (477 U.S. 902 (1986)). The other cases cited by plaintiff *Bionche v. Rylaarsdam*, 334 F.3d 895 (9th Cir. 2003) and *Catz v. Shocker*, 142 F.3d 279 (6th Cir. 1998) do not support plaintiff's position for a split of the circuits with respect to the *Rooker-Feldman* doctrine. In fact, this court has recently issued opinions in *Lance v. Dennis*, *supra*, and *Exxon Mobil Corporation*, *supra*, in the current and last year's term of the court, discussing the application of the doctrine.

Finally, the petitioner argues that "the decision below is incorrect." However as soundly reasoned by the United States District Court and affirmed by the Ninth Circuit Court of Appeals, the plaintiff's Complaint is barred for lack of the District Court having subject matter jurisdiction under the *Rooker-Feldman* doctrine.

CONCLUSION

For all of the above reasons, the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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DATED: March 6, 2006

NO. 05-985

IN THE
SUPREME COURT OF THE UNITED STATES

CHARLES J. TITTLE
Petitioner,

v.

DOROTHY D. BOTTORFF-TITTLE, et al
Respondents,

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

PETITIONER'S SUPPLEMENTAL REPLY BRIEF TO RESPONDENT, DOROTHY D. BOTTORFF-TITTLE OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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In re Marriage of Lloyd (1997)
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Kulko v. California Superior
Court, 436 U.S. 84, at 91-92 9

Sosnick v. Sosnick (1999)
71 Cal.App. 4th 1335, 1339-1340,
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4 Thomas, Thompon on Real
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INTRODUCTION

This reply brief to respondent Dorothy Bottorff-Tittle to show there is lot of untruths, misleading statements, bias statements and trying to mislead this court in believing that petitioner has always do everything possible to keep respondent from get her misguided judgment satisfied at the cost of petitioner losing his constitutional rights.

RESPONSE TO RESPONDENT BOTTORFF-TITTLE'S OBJECTION TO PETITIONER'S STATEMENT OF JURISDICTION

Respondent's jurisdictional statements are inaccurate and no where supported by authority or authorities.

Under California statute a failure to appoint a guardian ad litem is a violation of Procedural Due Process Law, and this failure is not readily appealable, California Civil Procedure Code, section 904.1. Parties seeking to contest a denial of procedural due process must wait until a final judgment.

The granting or denying a fair hearing is procedural in nature. In petitioner's federal complaint petitioner alleged he was denied a fair hearing in the state family law court, the regular civil court, in the appellate court, and at the misguided sanction ruling or incomplete ruling.

This court has recognized that in state proceedings a party may be denied procedural due process which may lead to a 1983 Civil Rights Action or actions, Zinermon v. Burch, 494 U.S. 113, 138-139, 108 Led 2d 100, 110 S.Ct. 975. Even the State of California has recognized the need to protect Procedural Due Process Rights in their courts, Gilbert v. City of Sunnyvale (2005) 130 Cal.App. 4th 1264, 1276-1277.

STATEMENT OF FACT AND DISPUTED FACTS

A. THE DISSOLUTION

The first misconception is that the petitioner and respondent were married in California. Petitioner and respondent were married in the State of Nevada.

On December 22, 1994, the respondent (Dorothy) did not file for dissolution of the marriage.

The respondent has totally misleading this court to the stipulation for the worker's compensation checks. The check were take from the United States mail and kept hidden from all other parties. Respondent's attorney allegedly started talking to petitioner attorney trying to get control of his sole and separate property taken for the US mail. Petitioner attorney then accused him of hiding the funds from him. Petitioner (Mr. Tittle) informed him that he has not received one red cent from said workers' compensation case. Then about ten days later, petitioner's attorney sent him the checks with a letter from respondent's attorney requesting the checks be signed and turned over to her. Petitioner refused and kept the checks. Then both attorneys entered into a stipulation without the authorization of the petitioner (Mr. Tittle), were all the check numbers was listed. When the petitioner's attorney told him that he was going to jail. Petitioner said, let it happen. All this was in violation of In re marriage of Fisk (1992) 2 Cal.App.4th 1698 , 4 Cal.Rptr.2d 95

The Arkansas Marina was real property located in the State of Arkansas. The State of Arkansas is a common

law jurisdiction and as such, not subject to California Supreme Court rules, Fall v. Eastin, 215 U.S. 1, 2-10, 54 LEd 65, 30 S.Ct. 3 (1906).

The State of Arkansas does give full faith and credit to forergn jurisdictions, 4 Thomas, Thompon on Real Property, Second Edition, Sections 37.16-37.16(b), (David A Thomas, ed. 2004).

After filing the above-dissolution, the respondent moved to the State of Arizona where she enter into real estate contracted to purchase and purchased real property in Arizona. Then contracted to work as a school teacher. During time, respondent paid Arizona state income taxes, Social Security Taxes, and other Taxes.

Also, while in the State of Arizona, she sold her interest in the State of California community real estate. As for the Arkansas real property, respondent (Dorothy) agreed to the hiring of Arkansas real estate broker who prepared an Arkansas real estate contract to sell her interest in the Arkansas Marina. The broker also set the agreed escrow account to which petitioner deposited the deposit of two thousand dollars. While respondent (Dorothy) in

Arizona, she breached the Arkansas real estate property and come back to California to handle the take over in violation of the real estate contract.

The prepared and signed Arkansas real estate contract contained a binding forum-selection clause.

This court has long recognized forum-selection clauses as binding and the person seeking to break the forum-selection clause has the heavy burden of showing that its enforcement would be unreasonable, unfair or unjust, The Bremen v. Zapata Off-Shore Company, 407 U.S. 1, 8-20.

In the respondent's case, there was no showing that the forum-selection clause in the contract she agreed to was unreasonable, unfair, or unjust.

Respondent simply broke the sales agreement, return to California for the sole propose of filing a separate Order To Show Cause in California family law court.

In the handwritten stipulation there was no provision for Arkansas' real estate property conveyance, taxes, ARK Code Ann, Section 26-3-301. Simply stated California family law courts failed to follow Arkansas real property

laws.

In the State of California, family law courts have limited jurisdiction. They do not have jurisdiction to settle breach of contract actions, Sosnick v. Sosnick (1999) 71 Cal.App. 4th 1335, 1339-1340, 84 Cal.Rptr 2d 700.

California appellate courts also cannot confer jurisdiction where courts the California legislature has not spoken. California appellate courts are without jurisdictional authority over real property located in the State of Arkansas.

At best, California have personam jurisdiction. They can force incompetent persons under psyiatric care to sign stipulation and rule them valid. These handwritten stipulations and subsequent orders should not be binding on the State of Arkansas.

On Page 6 and 7 of opposition brief, respondent (Dorothy) rases the issue of lack of unfairness as to the distribution of the marital assets. Respondent contention must be that the ends justify the means.

What is at issue is denial of Procedural Due Process. This means reasonable notice, some form of a hearing and

an opportunity to call witness on his or her behalf, 13 Cal.Jur. 3d constitutional law, section 312-323.

On page 7, of Opposition Brief, respondent Bottorff-Tittle states:

> The state court found the evidence of petitioner's alleged incompetency lacking.

The logical question is did the petitioner receive notice of a hearing. What procedure was used at this hearing. More importantly, did the petitioner have an opportunity to subpoena witnesses on behalf? The answer is simply no.

Does California case law provide for these Constitutional Due Process protection. The answer is yes, In re Marriage of Lloyd (1997) 55 Cal.App. 4th 216, 219-224, 64 Cal.Rptr 2d 37. There is no record because the family law court the civil trial court and the appellate court simply did not follow the procedure set down by the State legislature and other appellate courts.

If the trial court were to require substantial evidence, the petitioner should be allowed to subpoena Dr. Laurence Jackson M.D., petitioner's treating psychiatrist. This